

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No.: 12672US01)

In The Application of:)
Robert Franklin Carey)
Patent No. 6,920,432)
Serial No. 09/639,478)
Filed: August 15, 2000)
For: TECHNIQUES OF SELECTING)
SECURITIES FOR A PORTFOLIO)
USING BUYBACK RATIO AND)
DIVIDEND YIELD)
Examiner: Nicholas D. Rosen)
Group Art Unit: 3625)
Confirmation No.: 9992)

SUBMITTED VIA ELECTRONIC
TRANSMISSION
on November 18, 2008

REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE
(37 CFR 1.322)
EXPEDITED (PER § 1480.01 MPEP)

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Office of Publications, Certificate of Corrections Branch

Nike Securities, L.P., the assignee of record of U.S. Patent No. 6,920,432 ("the patent," attached as Exhibit A), requests an **expedited** Certificate of Correction pursuant to 35 U.S.C. 254 and 37 CFR 1.322 to correct five mistakes in the patent. **Expedited treatment is requested because the patent is currently involved in litigation**, *First Trust Portfolios LP v. Jackson National Life Insurance Company, et al.*,

lawsuit filed August 25, 2008, In the United States District Court for the Northern District of Illinois, Docket. No. 1:08cv4853, documented by Exhibit B, page 1 of the LEXIS record of the patent.

§ 1480.01 MPEP is Satisfied

The requirements of § 1480.01 of the Manual of Patent Examining Procedure (8th Ed., Rev. 7, July 2008) for expedited issue of a certificate of correction have been met.

The Patent Owner has provided the required evidence to show that the error is attributable solely to the Office (i.e., requests filed pursuant to 37 CFR 1.322 only). The evidence is provided as Exhibits B, C, D, and E.

The text of the corrections requested has been submitted on a Certificate of Correction form, PTO/SB/44. The location of the error in the printed patent has been identified on form PTO/SB/44 by claim and line number.

The Patent Owner has shown that the correction requested was incurred through the fault of the Office, and the matter is clearly disclosed in the records of the Office, and is accompanied by documentation that unequivocally supports the Patent Owner's assertions.

Detailed Explanation of Mistakes

Following are the mistakes in the patent requiring correction. Each mistake in the patent as detailed below was incurred through the fault of the Office, and is clearly disclosed in the records of the Office identified below and attached to this Request as Exhibit A (the patent) versus Exhibits C-E (from the prosecution history of the patent).

Claim 1

Claim 1 as granted (the issued version of application claim 1) should be corrected as follows:

1. A method₁ utilizing a computer₁ for selecting securities from a group of available securities for an investment portfolio, the method comprising:
collecting the dividend yields and buyback ratios of said group of available securities;
ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to form a group of ranked securities; the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and
selecting at least some of the ranked securities having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios to form a group of selected securities; wherein at least one of the steps of collecting, ranking, and selecting is carried out by a computer.

The changes shown by underlining and strikeout in lines 1 (addition of two commas), 2, and 8-12 of claim 1 as presented above conform claim 1 to its status shown as claim 1 in Exhibit C, an Amendment including a Claim Listing filed by the applicant on August 9, 2004, as modified and allowed by Exhibit D, the Examiner's Amendment in the Notice of Allowability mailed on March 9, 2005. The claim was not renumbered at issue, as documented by Exhibit E, Issue Information, entered March 9, 2005.

Claim 13

Claim 13 as granted (the issued version of application claim 14) should be corrected as follows:

13. A computer-readable medium bearing a computer program containing ~~instruction~~instructions which, when implemented by a general purpose computer, cause the computer to carry out the steps of:

collecting the dividend yield and buyback ratios of said group of available securities;

ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yield and said collected buyback ratios to form a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

selecting at least some of the ranked securities having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios to form a group of selected securities.

The changes shown by underlining and strikeout in line 2 of claim 13 as presented above conform claim 13 to its status shown and allowed as claim 14 in Exhibit D, the Examiner's Amendment in the Notice of Allowability mailed on March 9, 2005. The claim was renumbered from 14 to 13 at issue, as documented by Exhibit E, Issue Information, entered March 9, 2005.

Claim 14

Claim 14 as granted (the issued version of application claim 15) should be corrected as follows:

14. Apparatus for selecting securities from a group of available securities having dividend yields and buyback ratios for an investment portfolio, the apparatus comprising:

a memory storing the dividend yields and buyback ratios of said group of available securities;

a processor programmed to rank at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to generate a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

an output unit indicating in human readable form at least some of said ranked securities having the highest magnitude of the sum of said dividend yields and said buyback ratios.

The changes shown by underlining in lines 2, 3, and 9-14 of claim 14 as presented above conform claim 14 to its status shown as claim 15 in Exhibit C, an Amendment including a Claim Listing filed by the applicant on August 9, 2004, as allowed without modification by Exhibit D, the Notice of Allowability mailed on March 9, 2005. The claim was renumbered at issue, as documented by Exhibit E, Issue Information, entered March 9, 2005.

Claim 15

Claim 15 as granted (the issued version of application claim 16) should be corrected as follows:

15. The apparatus of claim ~~[[14]]~~ 14, wherein said group of available securities comprises the 30 stocks that make up the Dow Jones Industrial Average.

The changes shown by underlining and double brackets in line 1 of claim 15 as presented above (net addition of a comma) conform claim 15 to its status shown as claim 16 in Exhibit C, an Amendment including a Claim Listing filed by the applicant on August 9, 2004, as allowed by Exhibit D, the Notice of Allowability mailed on March 9, 2005. The application claim and its antecedent reference to claim 15 were renumbered at issue, as documented by Exhibit E, Issue Information, entered March 9, 2005.

Claim 16

Claim 16 as granted (the issued version of application claim 18) should be corrected as follows:

16. The apparatus of claim ~~4~~14 wherein said predetermined criteria consist only of said predetermined relationship between said collected dividend yields and said collected buyback ratios.

The changes shown by underlining and strikeout in line 1 of claim 16 as presented above (change of the antecedent reference to recite claim 14) conform claim 16 to its status shown as claim 18 in Exhibit C, an Amendment including a Claim Listing filed by the applicant on August 9, 2004, as allowed by Exhibit D, the Notice of Allowability mailed on March 9, 2005. The claim and its antecedent reference to claim 15 were renumbered at issue, as documented by Exhibit E, Issue Information, entered March 9, 2005.

PTO/SB/44

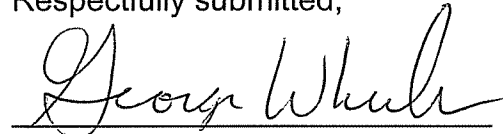
A completed form PTO/SB/44 (07/07) showing these changes to patent claims 1 and 13-16 is enclosed herewith.

This request is made solely to correct mistakes by the Office in printing the patent, and thus no fee is believed to be due. The Office is authorized to withdraw any payments presently due or credit any over-payments to Deposit Account No. 13-0017.

This request is made by an attorney of record for this patent, as shown on PAIR.

Dated: November 18, 2008

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George Wheeler", written over a horizontal line.

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UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO : 6,920,432
APPLICATION NO.: 09/639,478
DATED : July 19, 2006
INVENTOR(S) : Robert Franklin Carey

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In claim 1, line 1, after "method" insert: ,

In claim 1, line 1, after "computer" insert: ,

In claim 1, line 3, after "portfolio" insert: , the method

In claim 1, line 10, replace "," with: , the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

In claim 1, line 11, after "securities" insert: having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios

In claim 13, line 2, replace "instruction" with: instructions

In claim 14, line 3, after "portfolio" insert: , the apparatus

In claim 14, line 10, after "securities" insert: , the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios

In claim 14, line 11, after "least" insert: some of

In claim 14, line 12, after "securities" insert: having the highest magnitude of the sum of said dividend yields and said buyback ratios

In claim 15, line 1, after "14" insert: ,

In claim 16, line 1, replace "1" with: 14

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EXHIBIT A



US006920432B1

(12) **United States Patent**
Carey(10) **Patent No.:** **US 6,920,432 B1**
(45) **Date of Patent:** **Jul. 19, 2005**(54) **TECHNIQUES OF SELECTING SECURITIES
FOR A PORTFOLIO USING BUYBACK
RATIO AND DIVIDEND YIELD**(75) **Inventor:** **Robert Franklin Carey, Naperville, IL
(US)**(73) **Assignee:** **Nike Securities, L.P., Lisle, IL (US)**(*) **Notice:** Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 491 days.(21) **Appl. No.:** **09/639,478**(22) **Filed:** **Aug. 15, 2000**(51) **Int. Cl.⁷** **G06F 17/60**(52) **U.S. Cl.** **705/36**(58) **Field of Search** **705/36**(56) **References Cited****U.S. PATENT DOCUMENTS**

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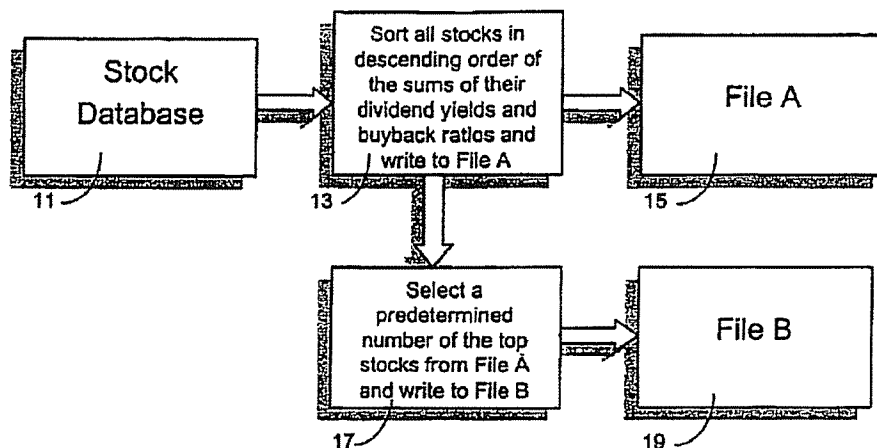
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(Continued)

Primary Examiner—Nicholas D. Rosen(74) **Attorney, Agent, or Firm**—McAndrews, Held & Malloy, Ltd.(57) **ABSTRACT**

A technique is provided for selecting a portfolio of securities for investment purposes. Specifically, the technique utilizes two types of securities-related data: dividend yields and buyback ratios. A group of securities is ranked by the sum of each security's dividend yield and buyback ratio; a number of the securities having the highest combined dividend yields and buyback ratios are selected for investment. The technique may include a computer for storing the buyback ratios and dividend yields.

18 Claims, 2 Drawing Sheets

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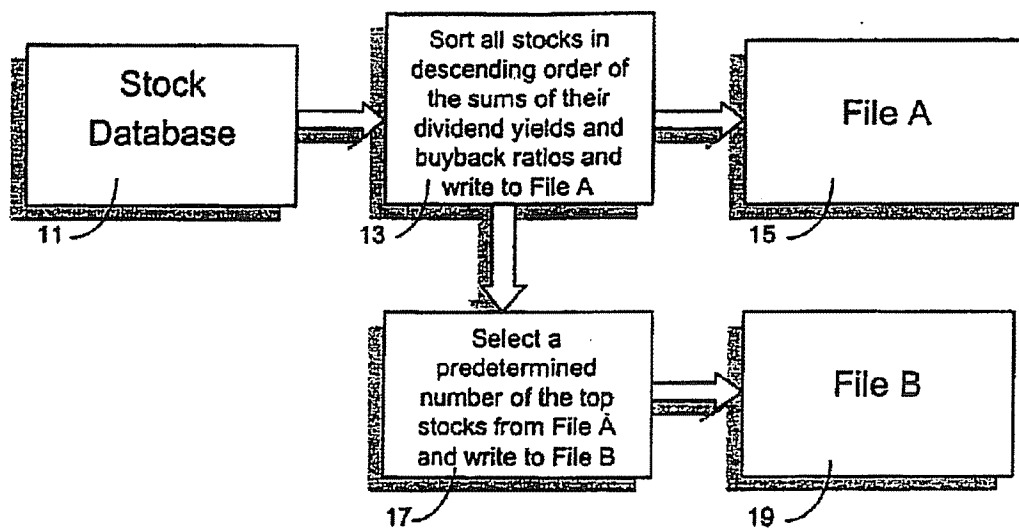
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FIG. 1



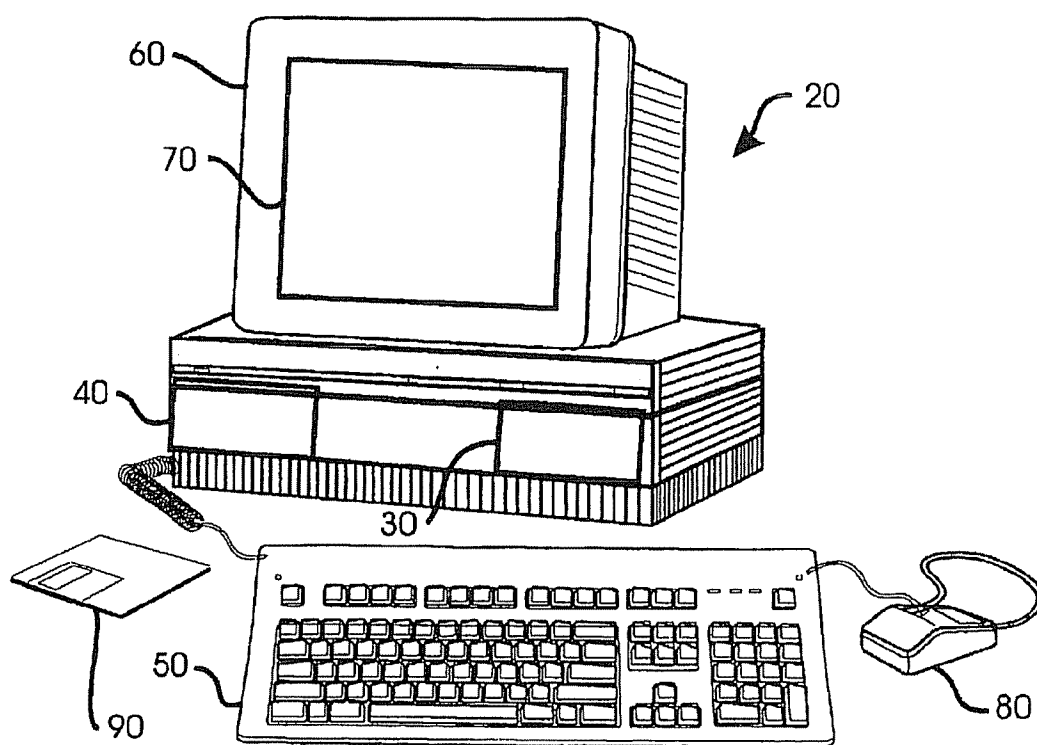


FIG. 2

TECHNIQUES OF SELECTING SECURITIES FOR A PORTFOLIO USING BUYBACK RATIO AND DIVIDEND YIELD

BACKGROUND OF THE INVENTION

The present invention generally relates to techniques for selecting a securities portfolio for investment. More particularly, the present invention relates to an investment strategy for selecting a securities portfolio based upon two criteria: dividend yields and buyback ratios. One investment objective of the present invention is to provide an above-average total return from the portfolio through investing in stocks with high dividend yields and high buyback ratios.

A unit investment trust (UIT) is a professionally selected, diversified portfolio of stocks, bonds, or other securities that remains as a fixed portfolio throughout the life of the trust. Investors in a UIT purchase units, which represent an undivided ownership in the entire portfolio. Unlike mutual funds, in which the portfolio is actively managed and traded and continuously changes, UITs generally remain fixed for a predetermined period of time. Portfolios are designed to fill a variety of investment needs and risk tolerance levels. They fall into primarily two categories, equity and fixed income.

Equity portfolios are typically classified as either strategy portfolios or sector portfolios. Strategy portfolios follow predetermined investment criteria for selecting the stocks for the portfolio. All strategies have three inherent qualities:

1. Simplicity: The strategies seek to out-perform specified indices by selecting portfolios using sound, fundamental screens that reflect the historical behavior of the securities.
2. Resilience: The strategies must show back-tested results and have staying power even through bear markets.
3. Discipline: The strategies dictate which stocks are chosen for the portfolio; no emotional judgments are made and the strategies always remain the same.

Heretofore, investment strategies have been illustrated in U.S. Pat. No. 5,978,778 issued to O'Shaughnessy on Nov. 2, 1999 and U.S. Pat. No. 5,132,899 issued to Fox on Jul. 21, 1992. However, these investment strategies are not the same as the method of the present invention.

SUMMARY OF THE INVENTION

A first embodiment of the invention is useful for selecting securities from a group of available securities for an investment portfolio. In such an environment, the first embodiment comprises collecting the dividend yields and buyback ratios of the group of available securities. At least some of the available securities are ranked according to predetermined criteria comprising a predetermined relationship between the collected dividend yields and the collected buyback ratios to form a group of ranked securities. At least some of the ranked securities are selected to form a group of selected securities.

A second embodiment of the invention is useful for selecting securities from a group of available securities having dividend yields and buyback ratios for an investment portfolio. The second embodiment comprises a memory storing the dividend yields and buyback ratios of the group of available securities. A processor is programmed to rank at least some of the available securities according to predetermined criteria comprising a predetermined relationship between the collected dividend yields and the collected buyback ratios to generate a group of ranked securities. An

output unit indicates in human readable form at least the ranked securities.

By using the foregoing techniques, dividend yields and buyback ratios may be used in an investment strategy attempting to obtain above-average total returns. These and other features of the present invention are discussed or are apparent in the following detailed description of the preferred embodiments of the invention.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a schematic flow chart depicting the steps in an exemplary method of selection of securities.

FIG. 2 is a schematic block diagram of a computer system embodying one form of the invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

The security selection techniques disclosed in this specification may be used in an investment strategy which seeks to outperform a typical index by adhering to a disciplined investment process. The first step in this strategy is defining the universe of securities for potential investment. In one embodiment of the present invention, the technique begins with using a database of stocks of companies listed in the Dow Jones Industrial Average ("DJIA"), which consists of 30 U.S. stocks chosen by the editors of *The Wall Street Journal* as being representative of the broad market and of American industry. However, the present invention is not intended to be limited to just the DJIA, or even to stocks; any type of security meeting the selection criteria may be utilized. Moreover, the present invention is not limited to any particular database of securities; any group of securities, including one developed by the user of the present technique, could be substituted for the DJIA.

The present techniques enable selection of securities from the group of securities based upon criteria including dividend yields and buyback ratios. By looking at dividend yields, the preferred embodiment seeks to uncover stocks that may be out of favor or undervalued. Regular dividends are common for established companies and have typically accounted for a large portion of the total return on stocks. Historically, companies rewarded shareholders in the form of dividend payments.

The preferred embodiment also looks at buyback ratios. More recently, many companies have turned to stock reduction programs as a tax efficient way to bolster their stock prices and reward shareholders. Companies which have reduced their shares through a share buyback program may provide a strong cash flow position and, in turn, high quality earnings. Buyback ratio is determined by subtracting one from the ratio of a company's shares of common stock outstanding 12 months prior to the initial date of deposit divided by a company's shares of common stock outstanding as of the business day prior to the initial date of deposit.

Referring to FIG. 1, a stock database 11 is formed by collecting data using, for example, a keyboard 50 of a conventional personal computer 20 (FIG. 2). The data collection includes the names of, or a representation of, the thirty (30) stocks that make up the DJIA. The names of the 30 stocks, or their symbols or other representative indicia, are included in the database 11 (FIG. 1) which is stored in a conventional computer memory 30 (FIG. 2).

In addition to the identity of the 30 stocks, other data related to each stock may also be stored in the database 11 and memory 30 in association with its respective stock

name. Such information may include (1) dividend yield and (2) buyback ratio.

In the step indicated by the diagram block 13 (FIG. 1), the stocks in the database 11 are ranked by any conventional means, such as by sorting or organizing, according to the magnitude of the sum of each stock's dividend yield and buyback ratio. The sorting may be done by organizing the stocks in descending order of these sums. The ranked stock names are written to File A, as shown in the diagram block 15. The ranking is executed by a processor 40 of computer system 20. Processor 40 may be a microprocessor, microcontroller or any integrated circuit capable of logical and arithmetic operations.

In addition to buyback ratio and dividend yield, various criteria may be used to rank the stocks, such as capitalization. However, in the preferred embodiment, only the dividend yield and buyback ratio for each stock are used for ranking. That information may be initially stored in database 11 and memory 30.

The results of the ranking are sent to a conventional output device, such as display monitor 60 having a display face 70. Alternatively, the results may be printed by a printer (not shown). The input and display process may be aided by a conventional computer mouse 80.

After File A has been completed, the step indicated by diagram block 17 is performed in which a desired number (for example, 10) of stocks from File A with the highest combined dividend yields and buyback ratios are selected. This part of the process may or may not be performed by computer system 20. Since the stocks are sorted in File A in descending order of the sum of each stock's dividend yield and buyback ratio, this selection is performed by identifying the first 10 stocks in the ordered list. As will suggest itself, other modes of selection may be used.

The identities of those 10 stocks are stored in File B as shown at diagram block 19. As understood, File B may be a file different from File A, or non-selected stocks in File A may be deleted to form File B. File B also may be stored in memory 30.

A computer program capable of executing the steps described in connection with FIG. 1 may be stored in memory 30 and on a conventional computer readable medium, such as a floppy disk 90 (FIG. 2) or a CD-ROM. Files A and B also may be stored on such medium.

In an exemplary embodiment, a portfolio of the top 10 stocks of File B will represent one series of a unit investment trust. With the deposit of the selected shares of stock, a percentage relationship among the securities in the trust's portfolio is established. In an exemplary embodiment, the percentages of stock holdings in the portfolio will be approximately equal on the initial date of deposit. Since the prices of the selected securities will fluctuate daily, the ratio of securities in the trust, on a market value basis, will also change daily.

The trust will terminate on a mandatory termination date, which will typically be approximately 13 months from the initial date of deposit. Twelve-month termination dates are also contemplated. However, the duration of the investment vehicle is not limited to any particular length of time.

Some possible features and benefits of such a unit investment trust or other pooled vehicle or investment account include (although these are not essential features of the present invention): immediate liquidity, in-kind distribution, low expenses, a dividend reinvestment option, and an exchange option. The present techniques allow a purchaser to acquire a quality portfolio of attractive common stocks in one convenient purchase.

The present invention is not limited to the selection of securities for funding a unit investment trust. Securities may be selected for funding any type of pooled investment vehicle or investment account. The present invention could also be used in connection with variable annuities, open-ended mutual funds, etc.

Price volatility is a potential risk factor relevant to a unit investment trust selected pursuant to the present method. Since the trust invests in common stocks of U.S. companies, the value of the trust's units will fluctuate with changes in the value of these common stocks. Common stock prices fluctuate for several reasons, including changes in investors' perceptions of the financial condition of an issuer or the general condition of the relevant stock market, or when political or economic events affecting the issuers occur. Because the trust would not be managed, stocks would not be sold in response to or in anticipation of market fluctuations, as is common in managed investments. The present techniques may use dividend yield as part of its selection criteria, which is a contrarian strategy in which the securities selected share qualities that have caused them to have lower share prices or higher dividend yields than other common stocks in their peer group.

The use of dividends also presents a risk to an investor. There is no guarantee that the issuers of the securities will declare dividends in the future or that if declared they will either remain at current levels or increase over time.

From time to time, various legislative initiatives are proposed in the United States and abroad which may have a negative impact on certain of the companies represented in the trust. In addition, litigation regarding any of the issuers of the securities or of the industries represented by these issuers, may negatively impact the share prices of these securities. The impact of any pending or threatened litigation on the share prices of the securities cannot be predicted.

In an exemplary embodiment, the following Table would illustrate one possible portfolio:

TABLE

Number of Shares	Issuer of Security	% of Aggregate Offering Price	Market Value per Share (\$)	Cost of Securities to Trust (\$)	Current Dividend Yield (%)
245	AlliedSignal Inc.	10	60.500	14.823	1.12
359	The Boeing Company	10	41.313	14.831	1.36
270	Caterpillar Inc.	10	55.000	14.850	2.36
224	Eastman Kodak Company	10	66.438	14.882	2.65
191	Exxon Corporation	10	77.875	14.874	2.26

TABLE-continued

Number of Shares	Issuer of Security	% of Aggregate Offering Price	Market Value per Share (\$)	Cost of Securities to Trust (\$)	Current Dividend Yield (%)
208	General Motors Corporation	10	71.250	14.820	2.81
155	International Business Machines Corporation	10	95.875	14.861	0.50
196	Merck & Co., Inc.	10	75.938	14.884	1.53
107	J. P. Morgan & Company, Inc.	10	139.313	14.906	2.84
591	Philip Morris Companies, Inc.	10	25.125	14.849	7.64

While particular elements, embodiments and applications of the present invention have been shown and described, it is understood that the invention is not limited thereto since modifications may be made by those skilled in the art, particularly in light of the foregoing teaching. It is therefore contemplated by the appended claims to cover such modifications and incorporate those features which come within the spirit and scope of the invention.

What is claimed is:

1. A method utilizing a computer for selecting securities from a group of available securities for an investment portfolio comprising:

collecting the dividend yields and buyback ratios of said group of available securities;

ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to form a group of ranked securities;

selecting at least some of the ranked securities to form a group of selected securities;

wherein at least one of the steps of collecting, ranking, and selecting is carried out by a computer.

2. The method of claim 1 wherein said group of available securities comprises the 30 stocks that make up the Dow Jones Industrial Average.

3. The method of claim 1 wherein said predetermined criteria consist only of said predetermined relationship between said collected dividend yields and said collected buyback ratios.

4. The method of claim 1 wherein said selecting comprises selecting a predetermined number of said ranked securities.

5. The method of claim 4 wherein said predetermined number is 10 or less.

6. The method of claim 1 wherein said method further includes purchasing at least some of said group of selected securities to form a group of purchased securities.

7. The method of claim 6 wherein said method further includes creating a unit investment trust comprising said purchased securities.

8. The method of claim 7 wherein the percentages of said purchased securities holdings in said unit investment trust are approximately equal.

9. The method of claim 7 wherein said unit investment trust has a life of 13 months or more.

10. The method of claim 6 wherein said method further includes creating a pooled investment vehicle comprising said purchased securities.

11. The method of claim 6 wherein said method further includes creating a variable annuity comprising said purchased securities.

12. The method of claim 6 wherein said method further includes creating an investment account comprising said purchased securities.

13. A computer-readable medium bearing a computer program containing instruction which, when implemented by a general purpose computer, cause the computer to carry out the steps of:

collecting the dividend yield and buyback ratios of said group of available securities;

ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yield and said collected buyback ratios to form a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

selecting at least some of the ranked securities having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios to form a group of selected securities.

14. Apparatus for selecting securities from a group of available securities having dividend yields and buyback ratios for an investment portfolio comprising:

a memory storing the dividend yields and buyback ratios of said group of available securities;

a processor programmed to rank at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to generate a group of ranked securities; and

an output unit indicating in human readable form at least said ranked securities.

15. The apparatus of claim 14 wherein said group of available securities comprises the 30 stocks that make up the Dow Jones Industrial Average.

16. The apparatus of claim 1 wherein said predetermined criteria consist only of said predetermined relationship between said collected dividend yields and said collected buyback ratios.

17. The apparatus of claim 14 wherein said processor selects a predetermined number of said ranked securities.

18. The apparatus of claim 17 wherein said predetermined number is 10 or less.

* * * * *

EXHIBIT B

6920432

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[Link to Claims Section](#)

July 19, 2005

Techniques of selecting securities for a portfolio using buyback ratio and dividend yield

REEXAM-LITIGATE:

NOTICE OF LITIGATION

First Trust Portfolios LP v. Jackson National Life Insurance Company Et A, Filed August 25, 2008, D.C. N.D. Illinois, Doc. No. 1:08cv4853

INVENTOR: Carey, Robert Franklin - Naperville, Illinois, United States (US)

APPL-NO: 639478 (09)

FILED-DATE: August 15, 2000

GRANTED-DATE: July 19, 2005

ASSIGNEE-PRE-ISSUE: December 27, 2000 - ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS)., NIKE SECURITIES L.P. Lisle ILLINOIS 60532, Reel and Frame Number: 011422/0480

ASSIGNEE-AT-ISSUE: Nike Securities, L.P., Lisle, Illinois, United States (US), United States company or corporation (02)

LEGAL-REP: McAndrews, Held & Malloy, Ltd. -

PUB-TYPE: July 19, 2005 - Utility Patent having no previously published pre-grant publication (B1)

PUB-COUNTRY: United States (US)

US-MAIN-CL: 705#36.R

CL: 705

IPC-MAIN-CL: [7] G06F 017#60

PRIM-EXMR: Rosen, Nicholas D.

REF-CITED:

5132899, July, 1992, Fox, United States (US), 705#36
5335277, August, 1994, Harvey et al., United States (US), 380#242

EXHIBIT C

McANDREWS, HELD & MALLOY, LTD.

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Telephone: 312/775-8000
Facsimile: 312/775-8100

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TO: Examiner Nicholas D. Rosen
Fax: (703) 872-9306

FROM: Ronald E. Larson
Fax: 312/775-8100

DATE: August 9, 2004

Matter: Our File No.: 0536-12672US01

No. pages sent
including cover page: 12 - Second Amendment After Final Under 37 CFR § 1.116

MESSAGE:

Original documents will: X Not be sent
 Follow by regular mail
 Follow by Federal Express

If you do not receive entire transmission, please contact Jan Lindsey at 312/775-8018.

The documents accompanying this facsimile transmittal coversheet contain information from the law firm of McAndrews, Held & Malloy, Ltd., which may be confidential and/or legally privileged. The documents are intended only for the personal and confidential use of the addressee identified above. If you are not the intended recipient or an agent responsible for delivering these documents to the intended recipient, you are hereby notified that any review, disclosure, copying, distribution or the taking of any action in reliance on the contents of this transmitted information is strictly prohibited. If you have received this facsimile in error, please immediately notify the Firm so that we can arrange for the return of the original documents to use.
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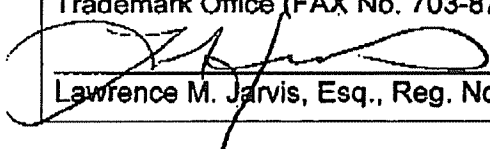
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Case No. 12672US01

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AUG 09 2004

In the Application of:)
ROBERT CAREY)
Serial No.: 09/639,478)
Filed: August 15, 2000)
For: TECHNIQUES OF SELECTING)
SECURITIES FOR A PORTFOLIO)
USING BUYBACK RATIO AND)
DIVIDEND YIELD)
Examiner: Nicholas D. Rosen)
Group Art Unit: 3625)
Confirmation No.: 9992)

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (FAX No. 703-872-9306) on August 9, 2004.


Lawrence M. Jarvis, Esq., Reg. No. 27,341

SECOND AMENDMENT AFTER FINAL UNDER 37 CFR § 1.116

Commissioner for Patents
Mail Stop After Final
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated June 10, 2004, kindly amend the above-identified application as follows. This amendment is being filed within two months of the office action mailing date pursuant to 37 CFR 1.136(a).

FROM McANDREWS, HELD, & MALLOY

(MON) 8. 9' 04 17:03/ST. 17:01/NO. 4861050285 P 4

AMENDMENTS TO THE SPECIFICATION:

NONE

AMENDMENTS TO THE CLAIMS:

Claim listing:

1. (Previously Presented) A method for selecting securities from a group of available securities for an investment portfolio, the method comprising:
collecting the dividend yields and buyback ratios of said group of available securities;
ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to form a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and
selecting at least some of the ranked securities having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios to form a group of selected securities.
2. (Previously Presented) The method of claim 1 wherein said group of available securities comprises the 30 stocks that make up the Dow Jones Industrial Average.
3. (Canceled)
4. (Previously Presented) The method of claim 1 wherein said predetermined criteria consist only of said predetermined relationship between said collected dividend yields and said collected buyback ratios.

5. (Previously Presented) The method of claim 1 wherein said selecting comprises selecting a predetermined number of said ranked securities.

6. (Previously Presented) The method of claim 5 wherein said predetermined number is 10 or less.

7. (Previously Presented) The method of claim 1 wherein said method further includes purchasing at least some of said group of selected securities to form a group of purchased securities.

8. (Previously Presented) The method of claim 7 wherein said method further includes creating a unit investment trust comprising said purchased securities.

9. (Previously Presented) The method of claim 8 wherein the percentages of said purchased securities holdings in said unit investment trust are approximately equal.

10. (Previously Presented) The method of claim 8 wherein said unit investment trust has a life of 13 months or more.

11. (Previously Presented) The method of claim 7 wherein said method further includes creating a pooled investment vehicle comprising said purchased securities.

12. (Previously Presented) The method of claim 7 wherein said method further includes creating a variable annuity comprising said purchased securities.

13. (Previously Presented) The method of claim 7 wherein said method further includes creating an investment account comprising said purchased securities.

14. (Previously Presented) A computer-readable medium bearing a computer program containing instruction steps such that upon installation of said computer program in a general purpose computer, the computer is capable of performing the method of claim 1.

15. (Previously Presented) Apparatus for selecting securities from a group of available securities having dividend yields and buyback ratios for an investment portfolio, the apparatus comprising:

a memory storing the dividend yields and buyback ratios of said group of available securities;

a processor programmed to rank at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yields and said collected buyback ratios to generate a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

an output unit indicating in human readable form at least some of said ranked securities having the highest magnitude of the sum of said dividend yields and said buyback ratios.

16. (Previously Presented) The apparatus of claim 15 wherein said group of available securities comprises the 30 stocks that make up the Dow Jones Industrial Average.

17. (Canceled)

18. (Previously Presented) The apparatus of claim 15 wherein said predetermined criteria consist only of said predetermined relationship between said collected dividend yields and said collected buyback ratios.

19. (Previously Presented) The apparatus of claim 15 wherein said processor selects a predetermined number of said ranked securities.

20. (Previously Presented) The apparatus of claim 19 wherein said predetermined number is 10 or less.

21. (Canceled)

EXHIBIT D

Notice of Allowability

Application No.

09/639,478

Examiner

Nicholas D. Rosen

Applicant(s)

CAREY, ROBERT FRANKLIN

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief of January 13, 2005.
2. ☒ The allowed claim(s) is/are 1,2,4-16 and 18-20.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 7/10/2003.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Claims 1-2, 4-16, and 18-20 have been examined.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Yufeng Ma on February 18, 2005.

The application has been amended as follows:

Claim 1 is hereby amended as follows: In the first line of claim 1, "A method for selecting securities" is hereby amended to read, "**A method, utilizing a computer, for selecting securities**". At the end of claim 1, the period after "selected securities" is hereby replaced by a semicolon, and followed by "**wherein at least one of the steps of collecting, ranking, and selecting is carried out by a computer.**"

Claim 14 is hereby amended to read:

14. A computer-readable medium bearing a computer program containing instructions which, when implemented by a general purpose computer, cause the computer to carry out the steps of:

collecting the dividend yield and buyback ratios of said group of available securities;

ranking at least some of the available securities according to predetermined criteria comprising a predetermined relationship between said collected dividend yield and said collected buyback ratios to form a group of ranked securities, the predetermined relationship comprising the magnitude of the sum of said collected dividend yields and said collected buyback ratios; and

selecting at least some of the ranked securities having the highest magnitude of the sum of said collected dividend yields and said collected buyback ratios to form a group of selected securities.

Allowable Subject Matter

Claims 1, 2, and 4-13 are allowed.

Claim 14 is allowed on the same grounds.

Claims 15, 16, and 18-20 are allowed on the same grounds.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Fried (U.S. Patent 6,035,286), discloses a method for selecting securities from a group of available securities for an investment portfolio, the method comprising: collecting the dividend yields and buyback ratios (column 2, lines 8-22; column 4, lines 17-25); and ranking at least some of said available securities according to predetermined criteria comprising a predetermined relationship to said collected buyback ratios to form a group of ranked securities (column 4, lines 35-57). There is

prior art in ranking securities by dividend yield, notably the article, "Dow Dogs Will Have Their Day, Fans Say Critics Call Strategy Overused, Outdated Dogs of 1997 Lost Their Bite," hereinafter "Dow Dogs," which teaches that buying back stock has become a common substitute for paying dividends. However, there is no teaching or motivation in Fried, "Dow Dogs," or other articles referring to the "Dogs of the Dow" strategy for portfolio selection that the predetermined criteria comprise a predetermined relationship between dividend yields and buyback ratios, the predetermined relationship comprising the magnitude of the sum of collected dividend yields and collected buyback ratios. Summing collected dividend yields and collected buyback ratios in this context appears to be non-obvious, except in hindsight.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leistensnider et al. (U.S. Patent 6,839,685) disclose a method for creating a portfolio of stock equities.

Dunagan, et al. ("Investing for Dividend Growth") and Hardy ("Get with Value") disclose earnings per share, or earnings paid out, but do so only in the context of dividends, without application to stock buybacks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753, which is scheduled to change to 571272-6762 on or about April 13, 2005. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

February 18, 2005

EXHIBIT E

Issue Classification 	Application No.	Applicant(s)	
	09/639,478	CAREY, ROBERT FRANKLIN	
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

ISSUE CLASSIFICATION									
ORIGINAL				CROSS REFERENCE(S)					
CLASS	SUBCLASS			CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				
705	36								
INTERNATIONAL CLASSIFICATION									
G	0	6	F	17/60					
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				/					
				Total Claims Allowed: 18 O.G. Print Claim(s): 1 O.G. Print Fig: 1					
(Assistant Examiner) (Date) <i>Patricia Davis</i> 3/2/05 (Legal Instruments Examiner) (Date)				(Primary Examiner) (Date) <i>Nicholas D. Rosen</i> 2/18/2005 NICHOLAS D. ROSEN PRIMARY EXAMINER					

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant										<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47	
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
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2	2		32		62		92		122		152		182		
	3		33		63		93		123		153		183		
3	4		34		64		94		124		154		184		
4	5		35		65		95		125		155		185		
5	6		36		66		96		126		156		186		
6	7		37		67		97		127		157		187		
7	8		38		68		98		128		158		188		
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9	10		40		70		100		130		160		190		
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	26		56		86		116		146		176		206		
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	28		58		88		118		148		178		208		
	29		59		89		119		149		179		209		
	30		60		90		120		150		180		210		